

## 1.3 Enforcement of Storm Water Ordinance

### 1.3.1 Introduction

This program component is applicable to the Storm Water Pollution Prevention Program (Storm Water Program) in the General Services Department, and any facility that directly or indirectly discharges storm water and non-storm water to the storm drain system, a creek, river, or lagoon. The goal of this component is to ensure the health, safety, and general welfare of the citizens and visitors of San Diego by reducing, controlling and eliminating illegal discharges and illicit connections into the storm water conveyance system from commercial, industrial, residential and municipal activities.

The City of San Diego enacted San Diego Municipal Code (SDMC) §43.0301 et seq, (Chap 04 Art 03 Div 03, Storm Water Management and Discharge Control <http://clerkdoc.sannet.gov/Website/mc/MunicodeChapter04.html>) entitled *Stormwater Management and Discharge Control* in 1993, commonly referred to as the City's storm water ordinance. This ordinance, in a nutshell, makes it unlawful for any person to discharge non-storm water into the City's storm water conveyance system. For six years, the City maintained a policy to educate violators of the storm water ordinance as the first response for compliance. Education was used unless there was evidence that the pollutant was intentionally discharged or exceptionally dangerous to the environment. The City Council changed this policy in 1999 directing the Storm Water Pollution Prevention Program to implement the administrative civil penalties and citation process. Since June 2000, 446 citations and 67 civil penalties have been issued for storm water violations.

This program must meet the requirements of the San Diego Municipal Permit, as described in Table 1.3-1.

**Table 1.3-1. Permit Requirements – Enforcement of Storm Water Ordinance.**

<b>URMP Section</b>	<b>Municipal Code Section</b>	<b>2001-01 Permit Requirement (Summary)</b>	<b>Municipal Permit Section</b>
1.3.2	43.03.07	Control contribution of pollutants associated with industrial and construction activity and runoff from industrial and construction sites.	D.1.a
1.3.2	43.0304	Prohibit all identified illicit discharges not otherwise allowed	D.1.b
1.3.2	43.0306	Prohibit and eliminate illicit connections to the Storm drain conveyance system	D.1.c
1.3.2	43.03.04	Control all discharges other than storm water to the storm drain conveyance system	D.1.d
1.3.2	N/A	Through interagency agreements control the contribution of pollutants from one portion of the	D.1.e

<b>URMP Section</b>	<b>Municipal Code Section</b>	<b>2001-01 Permit Requirement (Summary)</b>	<b>Municipal Permit Section</b>
		shared MS4 to another portion of the MS4.	
1.3.2	43.0310	Carry out all inspections, surveillance, and monitoring necessary to determine compliance and noncompliance.	D.1.h
1.3.2	43.0307	Require the use of best management practices (BMPs) to prevent or reduce the discharge of pollutants to MS4s.	D.1.i
1.3.2	43.03.07	Enforcement of Municipal Areas and Activities	F.3.a.(8)
1.3.2	43.03.07	Enforcement of Industrial Sites	F.3.b.(7)
1.3.2	43.03.07	Enforcement of Commercial Sites and Sources	F.3.c.(5)
1.3.2	43.03.07	Enforcement of Residential Areas and Activities	F.3.d.(4)
1.3.2	N/A	Report non-compliant industrial sites	F.3.b.(8)
1.3.2	N/A	Designate and Implement an Educational Program for all pertinent target audiences	F.4.a F.4.b F.4.c
1.3.3	N/A	Develop a budget for storm water expenditures for each fiscal year ordered by the Municipal Permit	F.8
1.3.4	N/A	Document activities for Jurisdictional Urban Runoff Management Program Annual Report	I
1.3.2	N/A	Develop and implement a procedure to evaluate and report the threat to the environment from non-storm water discharges to the Regional Board.	Attachment C A.6
Appendix 1.3-A	43.03	Identify allowable and prohibited discharges.	B.3

The objectives of this program component are to:

- Enforce the prohibition of illicit discharges to the storm water conveyance system.
- Enforce the prohibition of illicit connections to the storm water conveyance system.
- Coordinate with other Copermittees and agencies (e.g. Caltrans, US Navy) relative to the storm water violations.
- Inspect, monitor and survey as necessary to determine compliance and non-compliance.
- Enforce the use of storm water Best Management Practices (BMP's) to prevent or reduce discharges of pollutants to the municipal storm drain system.
- Enforce the San Diego Municipal Code throughout the City including municipal, industrial, construction, and residential areas.
- Report of non-compliant industrial sites to the San Diego Regional Water Quality Control Board.

- Educate businesses and residents about the storm water ordinance requirements and compliance alternatives as appropriate.
- Develop a checklist and procedure to evaluate the risk to the environment from non-storm water discharges.
- Develop a budget for storm water expenditures for each fiscal year ordered by the Municipal Storm Water Permit.
- Identify all allowable and prohibited types of discharges.
- Document activities for Jurisdictional Urban Runoff Management Program Annual Report.

### **1.3.2 Activities**

#### Storm Water Municipal Code Compliance

Storm water code compliance officers respond to and investigate reports of discharge to the storm water conveyance system, verify the use of appropriate storm water BMPs, take pictures, speak to witnesses, and make observations. After gathering facts and developing a case file, the officers examine the evidence and initiate appropriate educational or formal enforcement activity. Enforcement actions may carry monetary fines or storm water BMP implementation requirements depending upon the nature and intent of the discharge and threat of future discharges. Collectively, the code compliance officers monitor and coordinate discharge resolution and abatement efforts, determine adequate clean-up and compliance, act as a liaison between other regulatory agencies, the discharger, and the complainant.

Following is a description of the procedures utilized by the Code Compliance Officers when investigating violations of the City's ordinances. This discussion is followed by a description of the actual enforcement mechanisms utilized by code enforcement staff.

*1. Monitor for storm water violations including commercial, industrial, residential, and municipal activities:*

Code compliance officers are assigned a specific work area that they are responsible for proactively seeking potential and existing sources of illicit discharge and responding to reports of alleged violations. Methods of investigation include direct observation: drivebys, foot patrols, storm drain inspections, and indirect observation by evaluating the effects of runoff on basic ecological and biological assemblages: plant types, benthic macroinvertebrates, and odors.

*2. Respond to reports of alleged illicit discharges via website links, email, storm water hotline, or internal referrals:*

Code enforcement staff will respond to reports of alleged discharges to the storm water conveyance system consistent with Program priorities and capabilities, such as alleged spills from private sewer laterals. As the Think Blue<sup>™</sup> campaign gains momentum and education about identifying storm drain pollution expands, storm water staff anticipates receiving an increasing number of referrals from citizens and City employees. Any complaint not within the jurisdiction of the City will be forwarded to the appropriate agency or jurisdiction within one working day.

### *3. Follow-up Investigations:*

Code enforcement staff investigates the reported discharge and documents the nature of the discharge using complainant information, observations, photographs and/or waste/wastewater sampling. From the information gathered during investigation of the discharge, code compliance staff evaluates what storm water BMPs, if implemented, would have prevented or will prevent future discharges. These ideas may be presented to the discharger to help abate the violation.

### *4. Referrals:*

Code enforcement staff will notify the Neighborhood Code Compliance Department, Environmental Services Department, Fire Department, Metropolitan Wastewater Department, Transportation Department, Engineering & Capital Projects Department, or other appropriate agencies if additional remedial assistance is necessary. There are monthly coordination meetings between all departments with code enforcement activities. In addition, each year code compliance officers attend Code Compliance Week activities, which include presentations about each code enforcement unit and the City Attorney's office.

The Environmental Services Department addresses reports of illegal dumping and littering, enforcing San Diego Municipal Code (SDMC) Sections 54.0209 and 54.0210. The Environmental Services Department has Solid Waste Code Enforcement Officers who are responsible for anti-waste education and enforcing compliance with the City of San Diego Municipal Codes dealing with solid waste issues.

The Neighborhood Code Compliance Department addresses reports of illegal grading (i.e. grading without a permit). The Engineering & Capital Projects Department has responsibility for construction sites with permits. More details about construction site enforcement are included in the Construction Contracts component.

The Park and Recreation Department has jurisdiction over all City beaches. Dog feces on public property is defined as a nuisance under SDMC §44.0304.1 which states that failure to immediately remove dog feces to a proper receptacle constitutes a violation. This code is being aggressively enforced at Dog Beach at the mouth of the San Diego

River. According to SDMC §12.0201, SDMC §43.0304.1 can be prosecuted as a misdemeanor (6 months in jail or \$1000 fine) or at the discretion of the City Attorney's office, an infraction (fine not to exceed \$250). Traditionally these cases have been handled with a citation for an infraction.

#### *5. Education:*

When a responsible party for a discharge cannot be determined, the residences or businesses in the surrounding area receive a letter or educational materials that explain how to comply with the Storm Water Ordinance.

The Code Compliance Officers use discretion to determine if education alone will result in compliance. Factors that are considered are: the activity, past violations, nature of discharge, intent, and potential to cause harm to people or the environment. A description of available enforcement and education tools is more thoroughly described in a later section of this component entitled Enforcement Mechanisms.

#### *6. Monitor Violation Abatement And Resolution Efforts:*

Code enforcement staff will ensure continued compliance after the violation has been abated by re-inspecting the facility or residence, looking for evidence of further discharge, noncompliance, storm water BMP implementation, or implementation of other required corrective measures.

#### *7. Complaint and Violation Database:*

Code enforcement staff maintains case files on all complaints for reference, follow-up, and reporting to management and the San Diego Regional Water Quality Control Board (e.g. the Jurisdictional Urban Runoff Management Program Annual Report). Occasionally, code enforcement staff finds repeat violations at the same residence or facility. The case file assists code enforcement staff or City Attorney in determining the appropriate action for subsequent violations.

#### *8. Follow-up call to complainant:*

Code enforcement staff places a follow-up call to the complainant(s) to inform them that the City received the complaint, to give them the name of the officer assigned to the case, and to request additional details on the nature of the complaint, if necessary, within 24 hours of receiving the complaint.

### *Allowable and Prohibited Discharges*

A copy of the City of San Diego Municipal Storm Water Ordinance, Chapter 4 Article 3 Division 3, is attached for reference. Included in the Ordinance are listed prohibited discharges, allowable discharges, fines, storm water BMP requirements, definitions, and other regulatory citations.

### Twenty-Four Hour Non-Storm Water Discharge Reporting

Certain non-storm water discharges, because of their nature or magnitude, require timely reporting to the Regional Board. A report will also be forwarded to the Storm Water Program for record keeping purposes. Non-storm water discharges that pose a significant threat to water quality or human health, will be evaluated by City staff against the 24-Hour Non-Storm Water Discharge Reporting Checklist. A significant threat to water quality or human health is determined on a case-by-case basis and will be dependent on the type of pollutant, the degree of the violation (i.e. the amount of pollutant discharged into the municipal storm drain system), the proximity to receiving water bodies, the potential for exposure to the public, and the potential for environmental damage. Examples of discharges that will be reported include sewage spills and non-storm water discharges, such as a significant sediment load into Los Penasquitos Lagoon.

Where staff determines that discharges pose a significant threat to water quality or human health, the Storm Water Program or responsible City department will notify the Regional Board orally and by facsimile within 24 hours of the discharge event. Additionally, a written report of the event and follow up actions will be sent to the designated Regional Board contact for the Municipal Storm Water Permit, if needed, within 5 working days of the day the event was identified. A standard reporting form will be created by the Storm Water Program to be used by all City departments to facilitate consistency and maintain clear communication with the Regional Board. The report will contain the following information:

- Description of the event and it's cause;
- Duration of the event;
- Time the event is expected to continue if it has not been corrected;
- Steps taken to correct the non-storm water discharge event.

### Enforcement Mechanisms

The City's ultimate aim is compliance with its storm water ordinances. While the City Code Compliance Officers have several different methods available to obtain compliance with applicable regulations, officers generally follow an established

enforcement system to abate the violation and get the responsible party into compliance. This system is described below as progressive levels of enforcement.

1. *Educational Letters, BMP documents, or pamphlets.* Code enforcement staff utilizes level one enforcement when proof of an alleged discharge cannot be found or when the responsible party cannot be determined after a thorough investigation.

Example: Code enforcement staff responds to an oil dumping complaint about in a residential neighborhood and finds evidence of the oil but could not determine a responsible party.

2. *Issuance of an Administrative Citation.* Code enforcement staff utilizes level two enforcement when proof of discharge and a responsible party can be identified. Discharges that are less severe and smaller in nature generally receive an administrative citation. The Code Compliance Officer will generally include educational information on the types of Best Management Practices that should be implemented thereafter to avoid future violations.

Example: A resident washing a paint brush or concrete tools allows a discharge to a gutter or storm drain.

3. *Issuance of a Notice of Violation / Notice and Order (Administrative Civil Penalties).* Code enforcement staff utilizes level three enforcement when proof of discharge and a responsible party can be identified and the discharge is more severe. A Notice of Violation (NOV) states that an illegal discharge has occurred (or is occurring) and establishes an abatement deadline. The Code Compliance Officer will generally include educational information BMPs that should be implemented thereafter to avoid future violations.

After reviewing all the case information, the Code Compliance Official determines the appropriate civil penalty and corrective measures, and issues a Notice and Order, which allows the violator 14 days to comply. The City may assess civil penalties up to \$10,000 each day the violation continues, may recover the costs of enforcement, and may establish other appropriate corrective measures. In the event the violator does not comply with the Notice and Order within the 14 day time period, an appeal hearing is scheduled, after which the Hearing Officer issues an Administrative Enforcement Order. The violator may appeal the Hearing Officer's decision by filing a writ requesting a hearing before the Superior Court.

Example: Code enforcement staff responds to a report of restaurant employees negligently dumping grease and wash water to the street. The officer will request that the washing activity cease immediately, issue the NOV, and provide

educational material. If a violator does not cease discharge upon request from the officer, the officer calls for assistance from the City Police.

4. *City Attorney Referral (civil or criminal prosecution).* Code enforcement staff utilizes level four enforcement when the violator continues to discharge waste after the issuance of several Notices of Violation or Administrative Citations. City Attorney referral is also appropriate for discharges of hazardous substances or hazardous waste.

## Education & Training

### *1. Internal/Municipal Education:*

Code Compliance Officers in the Storm Water Program receive job specific training in the following areas:

- Health & Safety
- Storm Water Ordinance
- Evidence Collection
- Water Sampling
- Interview Techniques
- Investigative Report Writing

In addition to formal training sessions, there is on-going training provided by the Code Compliance Supervisor during “ride alongs” on actual investigations.

### *B) Activity Specific BMP Training(s):*

The Storm Water Program enforcement staff are the first to be informed and trained on storm water Best Management Practices for all target audiences and their related activities. As part of the city-wide Activity Specific Training (s), Code Compliance Officers will be available, to provide information on technical or enforcement issues, to ensure that City departments and/or work groups are in compliance with the San Diego Municipal Storm Water Permit.

### *2. External Education:*

As the enforcement arm of the Storm Water Pollution Prevention Program, code compliance officers come into contact with San Diego residents, businesses and industry daily. In order to effectively control illicit discharges, code staff routinely educates violators about the City storm water ordinance and discharge prohibitions. Upon responding to reports of illicit discharges and meeting with violators, code compliance officers provide educational materials containing common storm water



BMP's. The BMP documents contain specific information related to the pollutant(s) of concern in the discharge. For example, code compliance officers responding to a residential paint washing/dumping complaint provide information about why the City prohibits paint dumping, the effects of paint waste on the environment, proper equipment washing techniques, and locations where the city accepts and recycles paint and paint related products.

### 1.3.3 Phasing

#### Year 1 (July 1, 2001 – June 30, 2002):

- Hire and train Code Compliance Officers
- Coordinate with other departments involved in code compliance activities
- Prepare & submit annual activities report

#### Year 2 (July 1, 2002 – June 30, 2003):

- Train code compliance officers
- Coordinate with other departments involved in code compliance activities
- Prepare & submit annual activities report

#### Year 3 (July 1, 2003 – June 30, 2004):

- Train code compliance officers
- Coordinate with other departments involved in code compliance activities
- Prepare & submit annual activities report

#### Year 4 (July 1, 2004 – June 30, 2005):

- Train code compliance officers
- Coordinate with other departments involved in code compliance activities
- Prepare & submit annual activities report

#### Year 5 (July 1, 2005 – June 30, 2006):

- Train code compliance officers
- Coordinate with other departments involved in code compliance activities
- Prepare & submit annual activities report

Actual implementation of the activities listed above is dependent upon identification of funding in future yearly budgets and City Council approval.

### 1.3.4 Annual Assessment

The following form is representative of the quantitative and qualitative measures that will be tracked by the Storm Water Program regarding the Enforcement of Storm Water Ordinance component in order to prepare the Jurisdictional Urban Runoff Management Program annual assessment. *These assessment factors and questions are presented for information only; some questions may be modified prior to each annual assessment period, and not all of the factors or questions below may apply to each component's responsible department(s).* Prior to each fiscal year, a tailored Annual Assessment Form will be distributed to responsible departments, and will include an Excel spreadsheet containing direct and indirect quantitative and qualitative measures similar to the example below. The Storm Water Program will provide a blank copy of the Annual Assessment Form and additional guidance to department management prior to the beginning of each fiscal year. Submission of this report will require department director approval.

#### Program Assessment Form—Enforcement of Storm Water Ordinance Component

##### QUANTITATIVE ASSESSMENT:

Activity	Quantity	Units	Explanation (if needed)
Number of dry weather sampling locations monitored		#	
Number of illicit connections eliminated or on a compliance schedule		#	
Number of illegal discharges eliminated or on a compliance schedule		#	
Number of storm water complaints / referrals received		#	

##### QUALITATIVE ASSESSMENT:

1. Describe the major accomplishments of the Enforcement of Storm Water Ordinance Component over the past year.

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2. Summarize the internal and external educational and outreach activities the Enforcement of Storm Water Ordinance has conducted over the past year.

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3. Summarize new activities or improvements to be implemented next year as a result of your self-assessment.

4. Other comments.

**FINANCIAL ASSESSMENT:**

Estimated annual storm water expenditures:

Personnel Expenditures: \_\_\_\_\_  
Non-personnel Expenditures: \_\_\_\_\_